



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,351	11/20/2001	William Plenderleith	717901.16	1758

27128 7590 05/13/2004

BLACKWELL SANDERS PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
----------	--------------

3618

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,351

Applicant(s)

PLENDERLEITH, WILLIAM

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's submittal of an amendment was received on February 2, 2004, wherein claims 1, 5-7 and 9-10 were amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3, 12-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Davignon (US Patent 5,292,296).** Davignon discloses a vehicle for traveling over grassland and similar terrain, said vehicle comprising a generally horizontal platform (63) having attached to its underside two or more rotatable disks (56) each having a lower surface adapted to contact the ground, wherein said platform comprises a first area (22) on its upper side towards the front of said platform adapted to receive a first foot of a user, and a second area (22) on its upper side towards the rear of said platform adapted to receive a second foot of the user, each of said two or more rotatable disks being arranged to rotate relative to the first and second areas of the platform about a generally vertical axis (See Fig. 3A), the underside of each of said two or more rotatable disks being substantially convex in form (See Figs. 3A-3B); [claims 2-3] wherein said two or more rotatable disks are arranged along a longitudinal axis of said platform (See Fig. 1); [claim

Art Unit: 3618

12] wherein each of said two or more rotatable disks is supported on a spindle (60) attached to the underside of said platform; **[claim 13]** wherein said vehicle further comprises additional support means (66) adapted to provide additional support for each of said two or more rotatable disks in addition to said spindle; **[claims 14-16]** wherein said additional support means is a plurality of idler wheels/rollers/balls (See Fig. 3A); **[claim 17]** wherein each of said two or more rotatable disks is solid (See Fig. 3A); **[claim 20]** wherein the lower surface of each of said two or more rotatable disks is substantially in the form of part of the surface of a sphere, an ellipsoid, a truncated cone, or a truncated toroid (See Figs. 3A-3B).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 4-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) in view of Guidry (US Patent 5,584,787).** Davignon discloses a vehicle as set forth above, but does not disclose wherein said platform is resiliently pliable. Davignon does disclose wherein the platform is made from a plastic material, which is inherently pliable. Guidry discloses a board wherein said platform is resiliently pliable (See column 2, lines 58-63, which states that the footboard can be made from various materials having flexural strength, which would mean the platform is inherently pliable). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to make the

platform disclosed in Davignon out of a resiliently pliable material in view of the teaching of Guidry. The motivation for doing so would have been to allow the board to flex in relation to the user's shifting weight on the platform.

Regarding claim 5, the combination of Davignon with Guidry would disclose wherein said platform comprises a central portion between said first and second areas adapted to flex resiliently about a lateral axis in the plane of said platform.

Regarding claim 6, Davignon discloses wherein said first area of the platform is provided with a first rotatably mounted foot support member (See Fig. 4), and the second area of the platform is provided with a second rotatably mounted foot support member (See Fig. 5A), said first and second rotatably mounted foot support members being mounted for rotation independently from said two or more rotatable disks.

Regarding claim 7, Davignon discloses wherein each foot support member is rotatably mounted such that its axis of rotation is substantially coincident with the axis of rotation of one of said two or more rotatable disks (See Fig. 4, where the axis of rotations of the platforms and disks are parallel to each other).

Regarding claim 9, Davignon discloses wherein said central portion comprises a portion of said platform having a reduced cross-sectional area (See Fig. 6A).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) and Guidry (US Patent 5,584,787) as applied to claim 6 above, and further in view of Powell (US patent 1,975,661). The combination of Davignon and Guidry disclose a vehicle as set forth above, but does not disclose wherein said first and second foot support members are each provided with boot or shoe retention means. Powell discloses

Art Unit: 3618

providing boot or shoe retention means (27,28) for first and second foot support members. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide boot or shoe retention means for the foot support members disclosed in Davignon in view of the teaching of Powell. The motivation for doing so would have been to secure the user's foot to the platform during use.

7. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) in view of Douglass (US Patent 5,409,265).** Davignon discloses a vehicle as set forth above, but does not disclose wherein the platform has a generally concave shape in a longitudinal direction in its unstressed state, such that the central portion of the platform is lower than the ends of the platform. Douglass discloses a platform having a generally concave shape in the longitudinal direction in its unstressed state (See Fig. 1), such that the central portion of the platform is lower than the ends of the platform. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a concave platform for Davignon as taught by Douglass. The motivation would have been to allow the user to produce greater leverage on the ends of the platform during turning maneuvers.

8. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) in view of Hambsch (US Patent 5,855,385).** Davignon discloses a vehicle as set forth above, but does not disclose wherein the platform has a generally convex shape in a longitudinal direction in its unstressed state, such that the central portion of the platform is higher than the ends of the platform. Hambsch discloses a platform having a generally convex shape in the longitudinal direction in its unstressed state (See Fig. 3), such that the central portion of the platform is higher than the ends of the platform. At the time of the

Art Unit: 3618

invention, it would have been obvious to a person of ordinary skill in this art to provide a convex platform for Davignon as taught by Hambsch. The motivation would have been to allow the user to produce selective deformation of the area so as to vary the arc provided by the sidecut of the platform (See column 4, lines 19-27).

9. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) in view of Heatwole (US Patent 4,530,498). Davignon discloses a vehicle as set forth above, but does not disclose wherein each of said two or more rotatable disks is hollow, said upper surface of each of said two or more rotatable disks being substantially concave in form. Heatwole discloses wherein each of said two or more rotatable disks is hollow, said upper surface of each of said two or more rotatable disks being substantially concave in form. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to use hollow disks for the rotatable disks disclosed in Davignon as taught by Heatwole. The motivation for doing so would have been to reduce the weight of the rotatable disks.

In regards to claim 19, it would have been obvious to additionally configure the shape of the platform to correspond to the concave shape of the disks.

10. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davignon (US Patent 5,292,296) in view of Logan (US Patent 4,928,982). Davignon discloses a vehicle as set forth above, but does not disclose the axis of rotation of at least one of said rotatable disks being inclined in a first rotational sense about the longitudinal axis of the platform, and the axis of rotation of at least one other rotatable disk being inclined in an opposite rotational sense about the longitudinal axis of the platform. Logan discloses a skate having first

Art Unit: 3618

and second rotatable disks being oppositely inclined in relation to one another (See Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to arrange the rotatable disks disclosed in Davignon oppositely inclined to one another as taught by Logan. The motivation for doing so would have been to allow the rotatable disks to rotate more freely in the forward direction allowing the platform to be more stable.

Regarding claim 22, Logan discloses wherein the platform has attached to its underside three or more rotatable disks arranged along the longitudinal axis of said platform (See Fig. 1). Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least three rotatable disks, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

11. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3618

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Allen Shriver
Examiner
Art Unit 3618

JAS
JAS 5/6/04

Bryan Fischmann 5-10-4
BRYAN FISCHMANN
PRIMARY EXAMINER